



CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 1, 2005

ITEM NUMBER:

SUBJECT: ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH ADDITIONAL ZONING REGULATIONS OF OUTDOOR COMMUNICATION SYSTEMS OPERATED BY COMMERCIAL AND INDUSTRIAL USES

DATE: OCTOBER 20, 2005

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604

RECOMMENDATION:

Withdraw the ordinance from any further City Council consideration.

BACKGROUND:

On October 18, 2004, Council considered the attached ordinance that prohibits the use of an outdoor communication (paging system) on any commercial or industrial property if it is audible on a residential property. This ordinance has a significant affect on the City's automobile dealerships. The Harbor Boulevard of Motor Cars Dealership Association (Association) had requested that Council delay adoption of this ordinance for 12 months to allow them sufficient time to work with its members to voluntarily restrict the use of outdoor communication systems to the hours between 8 a.m. to 7 p.m.

Council concurred with the one-year continuance on a 5-0 vote. Please see Attachment 2 for a copy of the Council staff report and meeting minutes for additional background information.

ANALYSIS:

In the last 12 months, staff has not received any complaints regarding outdoor paging systems used by the automobile dealerships. Sam Kapur, Association President, provided a list of actions that some of the dealers have employed to minimize impacts to the surrounding residents (see Attachment 3). These actions include limiting the hours the outdoor speakers are used, changing the location/direction of speakers, and using cellular phones and/or radios for communication on the dealership.

Given the absence of complaints this past year, staff believes the Association's efforts have been successful. Staff recommends this ordinance be withdrawn from any further consideration, and that Code Enforcement staff address any other future incident that may arise on a case-by-case basis. Last year, Council Member Steel had also requested that lighting impacts to residential neighborhoods be addressed. Staff believes that this type of impact can also be addressed on a case-by-case basis and that an additional Zoning Code or Property Maintenance regulation is not necessary.

ALTERNATIVES CONSIDERED:

If Council wishes to regulate outdoor communication systems, Council may give first reading to the attached ordinance that prohibits the use of an outdoor communication (paging system) on any commercial or industrial property if it is audible on a residential property.

FISCAL REVIEW:

This ordinance does not require any fiscal review

LEGAL REVIEW:

The City Attorney's Office has reviewed the ordinance and approved it as to form.

CONCLUSION:

Given the absence this past year of noise complaints related to outdoor paging systems, staff believes the Harbor Boulevard of Motor Cars Dealers Association's effort has been successful. Staff recommends this ordinance be withdrawn from any further consideration, and that Code Enforcement staff address any other future incident that may arise on a case-by-case basis.


KIMBERLY BRANDT, AICP
Principal Planner


DONALD D. LAMM, AICP
Deputy City-Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
City Attorney
Deputy City Manager – Dev. Svs. Dir.
Public Services Director
Building Official
Chief of Code Enforcement
City Clerk (2)
Staff (4)
File (2)
Ed Fawcett

Sam Kapur
Nabers Automall
2600 Harbor Boulevard
Costa Mesa, CA 92626

Costa Mesa Chamber of Commerce
1700 Adams Avenue, Suite 101
Costa Mesa, CA 92626

Denis Retoske
Harbor Boulevard of Motor Cars
Dealership Association
2973 Harbor Boulevard
PMB #353
Costa Mesa, CA 92626

ATTACHMENTS: 1 Ordinance
 2 2004 Staff Report and Meeting Minutes
 3 Association Correspondence

File Name: 110105MOTORVEHORD

Date: 101305

Time: 2:30 p.m.

Attachment 1

Ordinance

ORDINANCE NO. 05-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING OPERATION OF OUTDOOR COMMUNICATION SYSTEMS BY COMMERCIAL AND INDUSTRIAL USES.

WHEREAS, the City of Costa Mesa's Municipal Code does not currently address commercial and industrial uses that operate outdoor communication systems.

WHEREAS, the operation of an outdoor communication system by a commercial or industrial use is a nuisance when it is audible to adjacent and nearby neighbors, including both businesses and residences; and

WHEREAS, the City Council of the City of Costa Mesa has determined that limiting the operation of outdoor communication systems serves the greater health, safety, and concern of the citizens of the City.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The following section is hereby added to Chapter XIII, Title 13 of the Costa Mesa Municipal Code to read as follows:

"Sec. 13-283.5 OUTDOOR COMMUNICATION SYSTEM

It shall be unlawful for any commercial and/or industrial business to operate an outdoor communication system that amplifies a voice, chime, ring, or similar sound so that it is audible on a property that contains residential uses and is an annoyance to a reasonable person residing on the property, regardless of the property's zoning or whether the noise level exceeds the standards specified in Section 13-280 EXTERIOR NOISE STANDARDS and Section 13-281 INTERIOR NOISE STANDARDS. This subsection shall not apply to an outdoor communication system that is used in conjunction with a special event that is permitted pursuant to Title 9 of this Code."

Section 2. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any

person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. Publication. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in the NEWPORT BEACH-COSTA MESA PILOT, a newspaper of general circulation printed and published in the City of Costa Mesa, or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED this ____ day of _____, 2005

Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

Deputy City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-___ was introduced and considered section by section at a regular meeting of said City Council held on the ___ day of ___, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ___ day of ___, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ___ day of ___, 2005.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa

Attachment 2

2004 Staff Report and Meeting Minutes

OCTOBER 18, 2004

an existing conditional use permit for a former gasoline service station to discontinue sales of gasoline to become solely an auto repair facility, located at 1045 El Camino Drive in an R2-MD (Medium Density, Multi-family Residential) zone. Environmental determination: Exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. A communication was received from Daniel C. Carlton, 2600 Michelson Drive, Suite 1120, Irvine, requesting a continuance.

MOTION/Continued
to February 7, 2005

On motion by Council Member Cowan, seconded by Council Member Steel, and carried 5-0, the public hearing was continued to the meeting of February 7, 2005.

An unidentified speaker asked if copies of the letter submitted by Mr. Carlton requesting the continuance were available to the public. She indicated that the continuance to February 7, 2005, was an extremely long time. Mayor Monahan replied that a copy of the letter is available in the City Clerk's office. The Development Services Director explained that the length of the continuance is to allow the property owner and the gas station owner to negotiate a settlement.

PUBLIC HEARING
Appeal of PA-04-14,
Sax

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider an appeal by Council Member Libby Cowan of the Planning Commission's denial of Conditional Use Permit PA-04-14 for Stan Sax, authorized agent for John Saunders and Doug Morehead, to allow a restaurant to serve alcoholic beverages after 11 p.m. (2 a.m. proposed for Fridays and Saturdays), to allow live entertainment/dancing within 200 feet of a residential use, and to allow off-site parking at 2801 Bristol Street for a restaurant, located at 2831 Bristol Street in a CL Zone (Commercial Limited District). Environmental determination: Exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. A communication was received from Ed and Geraldine Evans, Costa Mesa, asking Council to uphold the Planning Commission's denial of the project. Mayor Monahan announced that a request for continuance had been received from the applicant due to his inability to attend this evening.

The owner of the Bear Creek Apartments which are adjacent to the project reported that a similar conditional use permit had been denied for a restaurant in the same location due to the proposed hours of operation and the location being next to an apartment complex. He encouraged Council to uphold the Planning Commission's findings to deny the CUP.

MOTION/Continued
to November 15, 2004

On motion by Council Member Cowan, seconded by Council Member Scheafer, and carried 5-0, the public hearing was continued to the meeting of November 15, 2004.

There being no objection, Mayor Monahan announced that Public Hearing No. 5 would be addressed next.



PUBLIC HEARING
Regulations for Motor
Vehicle Retail Sales
Businesses

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider a proposed Ordinance amending Title 13 of the Costa Mesa Municipal Code to establish additional zoning regulations for motor vehicle retail sales businesses and outdoor communication systems operated by commercial and industrial uses. Environmental Determination: Exempt. The Affidavit of Publication is on file in the City Clerk's office. The Development Services Director reported that a request for continuance until October 17, 2005, has been received from the

dealer's association to allow them to resolve the outstanding issues.

Council Member Steel suggested that car dealer lighting, which severely impacts residential neighborhoods, be added to the discussion, when brought back.

MOTION/Continued
to October 17, 2005

On motion by Mayor Pro Tem Mansoor, seconded by Council Member Scheafer, and carried 5-0, the public hearing was continued to the meeting of October 17, 2005.

There being no objection, Old Business No. 2 was considered.

OLD BUSINESS
Solid Waste Hauling
Franchise Fee

The Deputy City Clerk presented from the meeting of October 4, 2004, second reading adoption of Ordinance 04-12, adopting a Solid Waste Hauling Franchise Fee amending the Costa Mesa Municipal Code Chapter IV of Title 8. Mayor Monahan indicated that a request for continuance had been received from staff.

MOTION/Continued
to November 1, 2004

On motion by Council Member Scheafer, seconded by Council Member Cowan, and carried 5-0, this item was continued to the meeting of November 1, 2004.

PUBLIC HEARING
Pacific Medical Plaza

The Deputy City Clerk announced that this is the time and place set for the public hearing to consider the Pacific Medical Plaza, for Cora Newman/Government Solutions, authorized agent for Joseph Brown, for the conversion of two existing trailer parks to allow the construction of a 76,500 square-foot, 4-story medical office building, with a 3-level parking structure, located at 1626/1640 Newport Blvd. Environmental Determination: Final EIR No. 1051.

Resolution certifying Final Environmental Impact Report (EIR) No. 1051 (SCH#2003071089) for the Pacific Medical Plaza.

Resolution adopting General Plan Amendment GP-02-06 for a site-specific Floor Area Ratio (FAR) for a moderate traffic generating land use (0.30 FAR allowed; 0.40 FAR maximum proposed).

Draft ordinance adopting Rezone Petition R-02-03, for rezoning of the property from C2 (General Business District) to PDC (Planned Development Commercial).

Resolution approving Mobile Home Park Conversion Permit PA-02-37, to convert two existing trailer parks, El Nido and Snug Harbor Village, to a medical office land use.

Resolution approving Master Plan Amendment PA-02-36, for the construction of a 4-story, 76,500 square-foot, medical office building and a 3-level parking structure on 4.4 acres.

The Affidavits of Publishing and Mailing are on file in the City Clerk's office. The Development Services Director and Senior Planner reviewed the Agenda Reports dated October 7, 2004, and they, along with the Associate Engineer, responded to questions from Council.

Carol Hoffman, Government Solutions, 230 Newport Center Drive, Suite 210, Newport Beach, representing the property owner, believed that the proposed project is complementary with surrounding uses, and advised that they had been encouraged by the City to present the 76,400 square foot, four-story building which



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 18, 2004

ITEM NUMBER:

SUBJECT: DRAFT ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH ADDITIONAL ZONING REGULATIONS FOR MOTOR VEHICLE RETAIL SALES BUSINESSES AND OUTDOOR COMMUNICATION SYSTEMS OPERATED BY COMMERCIAL AND INDUSTRIAL USES

DATE: OCTOBER 6, 2004

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604

RECOMMENDATION:

Postpone the adoption of an ordinance for twelve months to allow the Harbor Boulevard of Motor Cars Dealers Association to work with their members to address the issues.

BACKGROUND:

On March 22, 2004, the Planning Commission recommended that Council give first reading to a draft ordinance that amended the Zoning Code in respect to standards for landscaped setback adjacent to a public street, landscaping materials, and advertising banners for motor vehicle dealerships, on a 5-0 vote.

On April 19, 2004 Council denied first reading of the draft ordinance and received and filed the report. In a separate motion, Council also directed staff and Planning Commission to work with the Harbor Boulevard of Motor Cars Dealers Association (Association) to discuss solutions regarding the following two issues:

- A ban on amplified sound; and
- A ban on storage of vehicle inventory in residential neighborhoods.

On July 27, 2004, staff met with Association representatives to discuss the issues. On September 27, 2004, Commission recommended that Council postpone the adoption of an ordinance for twelve months to allow the Harbor Boulevard of Motor Cars Dealers Association to work with their members to address the issues.

Further discussion is provided in the following section.

permit for either modification or revocation. Given these existing Municipal Code provisions, staff does not believe any additional code amendments are necessary.

Additional analysis is contained in the attached Planning Commission staff report (Attachment 2); the Commission meeting minutes are also contained in Attachment 2.

ALTERNATIVES:

Council may now choose to give first reading to the attached ordinance that bans outdoor communication systems (see Attachment 1). Staff notes this ordinance applies to all commercial and industrial uses, and it is not just limited to automobile dealerships.

ENVIRONMENTAL DETERMINATION:

The code amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

FISCAL REVIEW:

This ordinance does not require fiscal review.

LEGAL REVIEW:


The City Attorney's Office has reviewed the draft ordinance and approved it as to form.


ENVIRONMENTAL DETERMINATION:

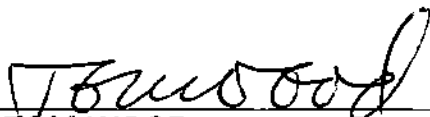
These code amendments have been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and have been found to be exempt.

CONCLUSION

Planning Commission supports the Association's request that they voluntarily limit the operation of their outdoor communication systems, and that the need for a citywide ban on these types of systems should be reevaluated in twelve months. Furthermore, Commission recommends that there are sufficient Municipal Code remedies to address the issue of the storage of vehicle inventory in residential neighborhoods and that future occurrences can be addressed on an individual basis.


KIMBERLY BRANDT
Senior Planner


DONALD D. LAMM
Deputy City Mgr.-Dev. Svs. Director


TOM WOOD
Acting City Attorney

ATTACHMENT 1

DRAFT ORDINANCE

ORDINANCE NO. 04-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING OPERATION OF OUTDOOR COMMUNICATION SYSTEMS BY COMMERCIAL AND INDUSTRIAL USES.

WHEREAS, the City of Costa Mesa's Municipal Code does not currently address commercial and industrial uses that operate outdoor communication systems.

WHEREAS, the operation of an outdoor communication system by a commercial or industrial use is a nuisance when it is audible to adjacent and nearby neighbors, including both businesses and residences; and

WHEREAS, the City Council of the City of Costa Mesa has determined that limiting the operation of outdoor communication systems serves the greater health, safety, and concern of the citizens of the City.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The following section is hereby added to Chapter XIII, Title 13 of the Costa Mesa Municipal Code to read as follows:

"Sec. 13-283.5 OUTDOOR COMMUNICATION SYSTEM

It shall be unlawful for any commercial and/or industrial business to operate an outdoor communication system that amplifies a voice, chime, ring, or similar sound so that it is audible on a property that contains residential uses and is an annoyance to a reasonable person residing on the property, regardless of the property's zoning or whether the noise level exceeds the standards specified in Section 13-280 EXTERIOR NOISE STANDARDS and Section 13-281 INTERIOR NOISE STANDARDS. This subsection shall not apply to an outdoor communication system that is used in conjunction with a special event that is permitted pursuant to Title 9 of this Code."

Section 2. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 04-____ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2004, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2004, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2004.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa

ATTACHMENT 2

PLANNING COMMISSION MEETING MINUTES AND STAFF REPORT

Excerpt from the minutes of the Planning Commission meeting of September 27, 2004

**DRAFT ORDINANCE
ESTABLISHING ZONING
REGULATIONS FOR
MOTOR VEHICLE RETAIL
SALES BUSINESSES**

City

The Chair opened the public hearing for consideration of a draft ordinance for the City Council of the City of Costa Mesa, California amending Title 13 of the City of Costa Municipal Code, to establish additional zoning regulations for motor vehicle retail sales businesses; and outdoor communication systems operated by commercial and industrial uses. Environmental determination: exempt.

Staff recommended the Planning Commission recommend to City Council, a postponement of the item for a period of twelve (12) months, by adoption of Planning Commission resolution to allow Harbor Boulevard of Motor Cars Dealers Association to work with their members to address outdoor communication systems.

Ms. Brandt explained that in discussions with the member dealers, the issue regarding amplified sound was of most concern to them. There are several dealers within the City that have been in existence for many years and have used outdoor communications systems that are an integral part to the daily business operation. She said the Association recommended that, as opposed to implementing an ordinance at this point, that the City Council allow them to work with the Association members to voluntarily restrict the use of their outdoor communication systems between 8 a.m. and 7 p.m. In reviewing this recommendation with them, staff believed that was an alternative worth pursuing. She said there are no current, ongoing complaints with Code Enforcement regarding the use of these outdoor systems. Staff is recommending that this alternative approach be implemented for a year and then come back for review to see if it's necessary to adopt a draft ordinance. She noted that if the Commission wishes to recommend adoption of an ordinance to City Council, there is one attached to the staff report. She said it is important to remember that the City could not limit this "ban" on an outdoor communication system just to motor vehicle dealers; it would also have to apply to all types of commercial and industrial businesses.

Ms. Brandt stated that the other issue was a ban on the storage of vehicle inventory in residential areas. She said the Association stated that it is not their dealers' business practice to store their inventory on residential streets because it would expose them to vandalism and theft; it is not their standard operating procedure to do this so they did not feel (1) that it was necessary to adopt an ordinance, or (2) they would be neutral on any type of ordinance

Mike Berry, 2064 Meadow View, Costa Mesa, stated that way this issue was presented to the Commission was inappropriate. He said problems with this issue have been going on for six years that he knows about. At least twice representatives have come before the Commission and discussed this topic. He noted that there are more dealers of Placentia Avenue then there are members in the Harbor Boulevard of Cars. Commissioner Foley stated that Ms. Brandt did in fact, raise the issue, i.e., that the ramifications of the ordinance would be that it would apply to fast food restaurants, etc., every place in the City.

Mr. Valantine stated that Mr. Berry has brought the Placentia Avenue situation to the attention of staff, and he thought he had been informed of the status and offered his apologies if that is not the case. He said City staff, both Planning and Code Enforcement, have done a comprehensive research of Placentia Avenue in terms of parking and set backs; selling of cars from some of those properties; missing landscaping; etc., and the Code Enforcement Office is in the process of following up on those. He said some of those properties that were previously selling are no longer selling cars, so we are making progress, but it is a long street and it will take some time to get all the way through. In response to a question from Commissioner Foley regarding a document relating to these actions, Mr. Valantine stated that the documentation for these actions is some internal collection of papers and historical information.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
Ordinance establishing
additional regulations for
Motor Vehicle Retail Sales
Businesses
Recommended postponement

A motion was made by Commissioner Foley, seconded by Chairman Garlich, and carried 5-0 to recommend to City Council, postponement of this item for 12 months, by adoption of Planning Commission Resolution PC-04-65, to allow Harbor Boulevard of Motor Cars Dealers Association to work with their members to address the issues.

In response to a question from the Chair, Mr. Brandt stated that this item would go to the City Council agenda of October 18, 2004.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 27, 2004

II.1.
ITEM NUMBER:

SUBJECT: DRAFT ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH ADDITIONAL ZONING REGULATIONS FOR MOTOR VEHICLE RETAIL SALES BUSINESSES AND OUTDOOR COMMUNICATION SYSTEMS OPERATED BY COMMERCIAL AND INDUSTRIAL USES

DATE: SEPTEMBER 16, 2004


**FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT, SENIOR PLANNER
(714) 754-5604**

DESCRIPTION

A draft ordinance amending the City of Costa Mesa's Zoning Code to establish additional zoning regulations for motor vehicle retail sales businesses and outdoor communication systems operated by commercial and industrial uses.

RECOMMENDATION

Recommend to City Council that the adoption of an ordinance be postponed for twelve months to allow the Harbor Boulevard of Motor Cars Dealers Association to work with their members to address the issues.


KIMBERLY BRANDT
Senior Planner


PERRY L. VALANTINE
Asst. Development Services Director

Furthermore, the Association representatives recommended that in lieu of adopting an ordinance, the City allow the Association to work with its members to voluntarily restrict the use of outdoor communication systems to the hours between 8 a.m. to 7 p.m. Additionally, the Association will continue to work with Code Enforcement to address any site-specific complaints on a case-by-case basis. Code Enforcement has not received any recent complaints regarding outdoor communication systems.

Staff concurs with this suggested approach. The adoption of a citywide ordinance may be too broad in its scope, when the actual problems are limited and better addressed on an individual basis. Staff suggests that any action on an ordinance be delayed for twelve months to give sufficient time to the Association to work with their members. Staff can return with a reevaluation of the need for an ordinance at that time.

Ban on storage of vehicle inventory in residential neighborhoods: The Association representatives indicated that their members do not store their vehicle inventory in residential neighborhoods. Such a practice would expose the vehicles to vandalism and/or theft. It was generally expressed, that if this was occurring, it was rare and would be limited to small independent dealers. The Association was neutral regarding any ordinance the City may adopt, since this was not the business practice of their member dealerships.

The Police Department has not had any recent complaints of vehicle inventory being stored on residential streets. Staff believes this type of business practice is best handled on a case-by-case basis by existing Municipal Code remedies. Title 20 prohibits the operation of a business not consistent with all applicable zoning approvals and approved plans (Section 20-4(b)), and violations are treated as misdemeanors. Furthermore, conditional use permits are required for automobile dealerships, and the Planning Commission could review/call up a conditional use permit for either modification or revocation. Given these existing Municipal Code provisions, staff does not believe any additional code amendments are necessary.

ALTERNATIVES

If the Commission wants to recommend to Council that they now adopt an ordinance that bans outdoor communication systems, Attachment 1 contains a draft ordinance. Staff notes this ordinance applies to all commercial and industrial uses, not just limited to automobile dealerships.

ENVIRONMENTAL DETERMINATION

These code amendments have been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and have been found to be exempt.

ATTACHMENT 2

City Council Meeting Minutes

PUBLIC HEARING
Ordinance Amending
the Zoning Code for
Motor Vehicle Retail
Sales Businesses

31, 2014, provided that the cost increase requests remain within the annual Consumer Price Index (CPI) limits, and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.

The Deputy City Clerk announced that this is the time and place set for a public hearing to consider an ordinance for the City Council of the City of Costa Mesa, amending the Zoning Code to establish special zoning regulations for Motor Vehicle Retail Sales Businesses. Environmental Determination: Exempt. The Affidavit of Publication is on file in the City Clerk's office. A communication was received from Sandra Genis, Costa Mesa, asking Council to consider other auto-related issues that have had a negative impact on neighborhoods. The Senior Planner reviewed the Agenda Report dated April 8, 2004, and responded to questions from Council.

Mike Berry, Costa Mesa, questioned the necessity of the proposed amendments as he felt the existing businesses would not be in compliance and that variances are routinely approved. Mayor Monahan clarified that the proposed code amendments would apply to new businesses or businesses undergoing a major improvement. Mr. Berry reminded council of complaints received regarding the public address system utilized by the Harbor Boulevard of Cars businesses and asked that Council consider requiring the businesses utilize other means of communication so as not to disturb residents within close proximity.

Jon Gray, President of Orange Coast Jeep/Chrysler/Dodge, Costa Mesa, noted that the Harbor Boulevard of Cars did not lobby for the proposed code amendments, and advised that they are willing to work with the City and with residents regarding specific issues. In response to Mayor Pro Tem Mansoor regarding that of use of the public address system, Mr. Gray stated that reasonably alternative means could be investigated, in addition to restricting the system to daytime use. He asked, however, that consideration not be given to the requiring discontinued use of the paging system if it was found to offer a more effective means of running their businesses.

Don Elmore, Costa Mesa, made comment regarding a seemingly routine approval of variances throughout the city and asked that whatever amendments are adopted, that they be strictly enforced. Regarding an alternative to the use of the public address system, Mr. Elmore suggested that dealerships utilize radio-phones as he has found them to be an effective and non-disruptive means of communication.

Matt Moloci, President of the Harbor Boulevard of Cars, reiterated the desire of the dealerships to work with the City and the residents to resolve issues and suggested that each dealership be reviewed separately, and that those concerns be brought to the attention of the local association of car dealerships to be addressed at their monthly meetings.

Robin Leffler, Costa Mesa, representing the Mesa Verde Homeowners Association, commented that the public address systems, test drives, and parking of cars from the dealerships, disturb the quality of life for the neighboring residents. She also voiced concerns about a landscape reduction, noting a preference in the recent addition of landscape along the thoroughfares throughout the City. She stated that the setbacks were important to allow for a deeper, well-maintained landscape as she felt that it would provide a look of well-being and prosperity in addition to

	<p>Council Member Cowan expressed her opposition to the motion as she felt that the changes were not needed at this time.</p>
<p>Substitute Motion Failed To Carry</p>	<p>A substitute motion was made by Mayor Monahan, seconded by Council Member Scheafer, to give first reading to the ordinance, failed to carry 3-2, Mayor Pro Tem Mansoor and Council Member Cowan and Council Member Steel voting no.</p> <p>The original motion carried 3-2, Mayor Monahan and Council Member Scheafer voting no.</p>
<p>MOTION/Provided Direction to Staff</p>	<p>A motion was made by Council Member Cowan, seconded by Mayor Pro Tem Mansoor, to direct staff and the Planning Commission, to meet with representatives from the car dealerships to discuss solutions to amplified sound, and storage of vehicle inventory on residential streets.</p>
<p>SUBSTITUTE MOTION/Directing Staff Died for Lack of a Second</p>	<p>A substitute motion was made by Council Member Steel, directing staff to discuss solutions for the issues regarding amplified sound, storage of vehicle inventory on residential streets, test drives in residential neighborhoods, on-site parking for employees, and on-site loading and off-loading areas provided for delivery of vehicles, died for lack of a second.</p> <p>Mayor Pro Tem expressed his hesitancy in banning test drives in residential neighborhoods explaining it would be difficult to enforce the ban as the streets are for public right-of-way uses.</p> <p>The original motion carried 5-0.</p>
<p>RECESS</p>	<p>The Mayor declared a recess at 7:55 p.m., and reconvened the meeting at 8:10 p.m.</p>
<p>PUBLIC HEARING 2004-2005 Community Development Block Grant Public Service Grant Allocations</p>	<p>The Deputy City Clerk announced that this is the time and place set for a public hearing to consider the 2004-2005 Community Development Block Grant Public Service Grant Allocations. The Affidavit of Publication is on file in the City Clerk's office. Communications were received from Rhoda Watson, Costa Mesa, requesting that Council not reduce the funding to the Orange Coast Interfaith Shelter; and Dr. Dennis Short, Newport Beach, requesting that Council reverse their decision for a 25 percent reduction in public funds for the homeless. The CDBG/HOME Coordinator reviewed the Agenda Report dated April 5, 2004, and he and the Neighborhood Improvement Manager responded to questions from Council.</p> <p>Mayor Monahan announced that allocation of CDBG funding for the Boys and Girls Club would be taken out of order and that Council Member Scheafer had recused himself from the discussion and the vote regarding the Boys and Girls club due to his wife's employment by the organization.</p> <p>There was no public comment.</p>
<p>MOTION/Approved CDBG Fund Allocation for Boys and Girls Club</p>	<p>A motion was made by Mayor Pro Tem Mansoor, seconded by Council Member Steel, and carried 4-0, Council Member Scheafer abstaining, to approve Fiscal Year 2004-2005 CDBG Public Service Grant Funds allocation of \$5,000.00 for the Boys and Girls Club.</p> <p>Dr. Dennis Short, Newport Beach, asked Council to reconsider the</p>

Attachment 3

Association Correspondence

To Whom It May Concern:

The Harbor Boulevard of Cars Association has been making a concerted effort this past year to minimize the inconvenience to surrounding residences from the loudspeaker systems at our member dealerships. Following is a list of actions taken at specific dealerships.

Connell Nissan/Chevrolet: Paging system is set not to amplify through the exterior speakers in the evenings.

Orange Coast Dodge/Chrysler: Paging system is not used after 7:00 pm. Nextel Direct Connect phones have been given to sales representatives, sales managers, lot attendants, service manager, service advisors, phone receptionist, cashier, and business office. Communication for phone calls and vehicle pick-ups are done through the Nextel phones.

Nabers Cadillac Pontiac GMC Buick: Paging system is not used after 7:00 pm. Nextel Direct Connect phones have been given to sales representatives, sales managers, lot attendants, service manager, service advisors, phone receptionist, cashier, and business office. Communication for phone calls and vehicle pick-ups are done through the Nextel phones.

South Coast Acura/Subaru: Paging system is not used after 7:30. Outdoor loudspeakers on the roof have been removed. All remaining outdoor loudspeakers have been turned to face inward. Radios are used between the cashier and the lot attendants to bring vehicles around for customer pick-up.

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